

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IZABELA TARASIEWICZ AND
THOMAS CROSIER
Plaintiffs,

v.

PNC BANK, NATIONAL
ASSOCIATION

Defendant.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 5:22-CV-816

NOTICE OF REMOVAL

Defendant PNC Bank, National Association (“PNC”) files this Notice of Removal pursuant to diversity jurisdiction under 28 U.S.C. § 1332.

**I.
INTRODUCTION**

1. On July 1, 2022, Plaintiffs Izabela Tarasiewicz and Thomas Crosier (“Plaintiffs”) filed their Original Petition and Application for Temporary Restraining Order and Temporary Injunction (“Petition”) in the 225th Judicial District Court of Bexar County, Texas under Cause No. 2022-CI-12363.¹

2. In the Petition, Plaintiffs assert monetary damage claims against Defendant for breach of contract stemming from the servicing of a mortgage of non-party Sergio Montufar Chavez encumbering the real property located at 4042 Wilderness Ridge, San Antonio, Texas 78261 (the “Property”). Plaintiffs also seek injunctive relief and a declaratory judgment preventing sale of the Property, and attorney’s fees.

¹ **Exhibit A.**

3. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders, and other papers filed in the state court action and obtained by PNC are attached hereto and marked as **Exhibit A**.

II. TIMELINESS OF REMOVAL

4. This suit was filed on July 1, 2022. PNC was served with process on July 14, 2022. Therefore, this Notice of Removal is timely.²

III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION

5. This Court has original jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332 (diversity jurisdiction). The requirements for diversity jurisdiction are met in this case, as Plaintiff and PNC are completely diverse in citizenship and the amount in controversy, exclusive of interests and costs, exceeds \$75,000.00.

A. Complete Diversity Exists.

6. Plaintiffs are citizens of Texas, residing in Bexar County, Texas.³

7. PNC is a national bank with its designated main office in Delaware, and as such is a citizen of the state of Delaware.⁴

8. Because Plaintiff is a citizen of Texas and PNC is a citizen of Delaware, complete diversity of the Parties exists.

² See **Exhibit A**, Return of Service.

³ See **Exhibit A**, Pet. at ¶¶ 1, 2.

⁴ See 28 U.S.C. § 1348 (national banks “shall...be deemed citizens of the States in which they are respectively located.”); See also *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 307, 126 S.Ct. 941, 945 (2006) (holding the term “located” as used in § 1348 refers to the place designated as a national bank’s main office in its articles of incorporation).

B. The Amount in Controversy Exceeds \$75,000.00.

9. In the Original Petition, Plaintiffs seek injunctive relief to enjoin Defendant from taking any action to foreclose the Property.⁵ Further, Plaintiffs explicitly state they seek “monetary relief over [\$]250,000 but not more than \$1,000,000.” Based on the monetary relief sought by Plaintiffs, and the value of the injunctive relief sought, the amount in controversy exceeds \$75,000.00 and removal is proper.

**IV.
VENUE**

10. Venue is proper in the Western District of Texas, San Antonio Division pursuant to 28 U.S.C. § 1441(a) because Bexar County, Texas is located within this District and cases arising from Bexar County, Texas are properly assigned to the Western District of Texas.⁶

**V.
ADDITIONAL REQUIREMENTS**

11. Plaintiffs have not demanded a jury trial.

12. Written notice of removal will be provided to Plaintiffs and filed with the District Clerk of Bexar County, Texas contemporaneously with this pleading.

Having satisfied the requirements for removal under 28 U.S.C. § 1332, PNC gives notice that Cause No. 2022-CI-12363 now pending in the 225th Judicial District Court of Bexar County, Texas, has been removed to this Court.

⁵ See **Exhibit A**, Pet. at 3.

⁶ 28 U.S.C. § 124(d)(4).

Respectfully submitted,

Bradley

By: /s/ Gabriella Alonso

JON H. PATTERSON

Texas Bar No. 24077588

jpatterson@bradley.com

Bradley Arant Boult Cummings LLP

1819 Fifth Avenue North

Birmingham, Alabama 35203-2104

Telephone: (205) 521-8403

Fax: (205) 488-6403

JESSIE R MANZEWITSCH PULERO

Texas Bar No. 24125659

Federal Bar No. 3737794

jmanzewitsch@bradley.com

GABRIELLA ALONSO

Texas Bar No. 24113527

Fed. I.D. No. 3427194

GALONSO@BRADLEY.COM

Bradley Arant Boult Cummings LLP

600 Travis Street, Suite 4800

Houston, Texas 77002

(713) 576-0300 Telephone

(713) 576-0301 Telecopier

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on this 27th day of July, 2022, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. I further certify that a true and correct copy of the foregoing has been served on all counsel of record as follows:

Via email: ken@osgclaw.com and austin@osglaw.com

Kenneth Saks
Austin R. Lopez
Oliva Saks Garcia & Curiel LLP
14255 Blanco Rd.,
San Antonio, TX 78216
Counsel for Plaintiff

/s/ Gabriella Alonso

Gabriella Alonso